
**APPEALS BOARD
UTAH LABOR COMMISSION**

WILLIAM REVENE,

Petitioner,

vs.

**NATIONWIDE INSURANCE
COMPANY and EMPLOYERS
INSURANCE OF WAUSAU,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 07-0271

William Revene asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Trayner's denial of Mr. Revene's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Revene seeks disability compensation, past medical expenses and future medical expenses for neck and low back injuries resulting from a work accident at Nationwide Insurance Company on October 19, 1997. After an evidentiary hearing, Judge Trayner concluded that Mr. Revene had already been paid the disability compensation and past medical expenses that were due for the injury. Judge Trayner therefore dismissed those claims with prejudice. Judge Trayner also concluded that Mr. Revene did not require any additional medical care at the present time. Judge Trayner dismissed Mr. Revene's claim for future medical care "without prejudice" so that the claim could be refiled if medical care became necessary in the future.

In requesting review of Judge Trayner's decision, Mr. Revene argues that Nationwide Insurance Company and its workers' compensation insurance carrier, Employers Insurance of Wausau (referred to jointly as "Nationwide" hereafter), have engaged in improper insurance adjusting practices. Mr. Revene also asserts that it is Nationwide's obligation to return Mr. Revene to the same condition he was in prior to his work accident. Additionally, Mr. Revene argues that Judge Trayner erred in concluding that his prior medical expenses have been paid. Finally, Mr. Revene contends that the report prepared by Nationwide's medical consultant should have been excluded from evidence as hearsay.

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DISCUSSION

The Appeals Board notes Mr. Revene's allegation that Nationwide has engaged in improper insurance adjusting practices. However, the Appeals Board lacks jurisdiction over that issue. Mr. Revene should direct his complaints regarding Nationwide's adjusting practices to the Utah Insurance Commission, which regulates the insurance industry.

Mr. Revene is incorrect in his assertion that Nationwide is obligated to return him to the same condition that he was in prior to his work accident. While the Utah Workers' Compensation Act requires employers and their insurance carriers to provide all medical care necessary to treat a workplace injuries, in some instances injured workers are left with permanent impairments that cannot be corrected by additional medical treatment. In such a case, the Act compensates the injured worker for his or her permanent impairment by requiring the employer or insurance carrier to pay additional disability compensation. It appears that in Mr. Revene's case that he has already received compensation for his permanent impairment.

Although Mr. Revene argues that not all his past work-related medical expenses have been paid, he has not submitted any documentation to support that argument.

Finally, Mr. Revene is incorrect in asserting that the report of Nationwide's medical consultant is inadmissible hearsay. The Utah Workers' Compensation Act and Utah Administrative Procedures Act both permit hearsay to be admitted and considered as evidence in these proceedings.

ORDER

The Appeals Board affirms Judge Trayner's decision. It is so ordered.

Dated this 21ST day of December, 2007.

Colleen S. Colton, Chair

Patricia S. Drawe

Joseph E. Hatch